

MIRKIN  
Lewis  
Bond

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May 13, 1957  
Opinion No. 51-1  
ARIZONA ATTORNEY GENERAL

REQUESTED BY: The Honorable L. H. Pugh,  
State Senator

OPINION BY: ROBERT MORRISON, The Attorney General  
Melvin J. Mirkin, Assistant Attorney  
General

QUESTIONS:

1. Is a corporation owning a cemetery and selling lots through its officers or employees, either on salary or commission basis, required to obtain a broker's license?
2. Must an individual selling lots from his own cemetery obtain a broker's license?

CONCLUSIONS:

1. Yes.
2. Yes.

A.R.S. § 32-2121 provides in part:

"§ 32-2121. Persons and activities not subject to chapter

Except as to the requirements with respect to the subdivision of land, this chapter shall not apply to:

1. A person, or corporation through its officers receiving no special compensation therefor, dealing in his or its own property, but this chapter does apply to sales of cemetery property, except by an individual acting with reference to property owned by him in his own name and who is not engaged in the business of selling cemetery property.

\* \* \* \* \*

The provision above cited contains exceptions within exceptions. In regard to subdividing, it makes no exceptions. It does, however, make the license requirement inapplicable to a person or corporation dealing in his or its own property, except those making sales of cemetery property. The licensing provisions do apply to those persons. An individual who is not engaged in the business of selling cemetery property and who owns a specific plot in his own

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name may sell it without being licensed. Under no circumstances is a cemetery corporation relieved from the obligation of complying with the licensing requirements of Chapter 20, Title 32, A.R.S.

It is, therefore, the opinion of this office that both a corporate and individual cemetery owner must obtain a real estate broker's license, pursuant to Chapter 20, Article 32, A.R.S. before selling cemetery property, and, furthermore, that those selling such property on behalf of such corporation or individual owner must be properly licensed real estate salesmen or brokers, under the laws of the State of Arizona.

ROBERT MORRISON  
The Attorney General

*Melvin J. Mirkin*  
MELVIN J. MIRKIN  
Assistant Attorney General

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